

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically on September 16, 2019, which may be different from its entry on the record.

IT IS SO ORDERED.

Dated: September 16, 2019



  
ARTHUR I. HARRIS  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re:

Richard M. Osborne

Debtor(s).

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Case No.: 17-17361

Chapter 7

Judge Arthur I. Harris

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**AGREED ORDER RESOLVING MOTION OF BANK OF AMERICAN, N.A. FOR  
ABANDONMENT OF REAL PROPERTY (FIRST MORTGAGE)  
(DOCKET NO. 581)**

This matter came to be considered on the Motion of Bank of America, N.A. for Abandonment of Real Property (First Mortgage) (the "Motion") filed by Bank of America, N.A. ("Creditor"), by and through its mortgage servicing agent Carrington Mortgage Services, as

Docket Number 581 with respect to certain real property located at 5542 Wilson Drive, Mentor, OH 44060 (the "Property").

WHEREAS, Creditor has alleged that that it has a first priority mortgage security interest in the Property, that it is entitled to foreclose on the Property and that Richard M. Osborne ("Debtor"), counsel for the Debtor, the Kari B. Coniglio, the duly appointed Chapter 7 Trustee (the "Trustee"), and all other necessary parties were served with the Motion and with notice of the hearing date of the Motion;

WHEREAS, no party has filed a response or otherwise appeared in opposition to the Motion, however, the Trustee has indicated to Creditor her objections to the Motion.

WHEREAS, the Trustee agrees that Creditor, and its successors and assigns, has relief from the automatic stay imposed by 11 U.S.C. § 362(a) of the Bankruptcy Code to exercise its rights and remedies with respect to the Property by virtue of the Order Granting Relief from Stay entered on February 13, 2019 as Docket Number 386; and

WHEREAS, the Trustee agrees that the bankruptcy estate's interest in the Property, by virtue of that certain judgment entry dated September 21, 2011 in the Court of Common Pleas for Lake County, Ohio, Case No. 11CV001234 (the "Estate Judgment") is junior to Creditor's mortgage security interest.

NOW THEREFORE, it is hereby stipulated, agreed to by and among Creditor and the Trustee, and the Court ORDERS as follows:

1. Creditor may proceed with the liquidation of the Property pursuant to applicable state law;
2. Creditor will file a report of sale promptly following liquidation of the Property;

3. if any excess proceeds remain after satisfying Creditor's lien and associated costs, in accordance with applicable state law, the Estate Judgment shall attached to such proceeds (the "Excess Proceeds"); and

4. Should any eExcess Pproceeds exist, the Trustee may seek the distribution of such Excess Proceeds to the bankruptcy estate in accordance with applicable state law.

# # #

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